

House File 2355

H-8231

1 Amend the amendment, H-8225, to House File 2355, as follows:

2 1. By striking page 1, line 1, through page 5, line 29, and  
3 inserting:

4 <Amend House File 2355 as follows:

5 1. By striking everything after the enacting clause and  
6 inserting:

7 <DIVISION I

8 ECONOMIC DEVELOPMENT LEGISLATIVE FINDINGS

9 Section 1. Section 96.2, Code 2022, is amended to read as  
10 follows:

11 **96.2 Guide for interpretation.**

12 1. As a guide to the interpretation and application of  
13 this chapter, the public policy of this state is declared to  
14 be as follows: Economic insecurity due to unemployment is  
15 a serious menace to the health, morals, and welfare of the  
16 people of this state. Involuntary unemployment is therefore  
17 a subject of general interest and concern which requires  
18 appropriate action by the legislature to prevent its spread  
19 and to lighten its burden which now so often falls with  
20 crushing force upon the unemployed worker and the worker's  
21 family. The achievement of social security requires protection  
22 against this greatest hazard of our economic life. This can  
23 be provided by encouraging employers to provide more stable  
24 employment and by the systematic accumulation of funds during  
25 periods of employment to provide benefits for periods of  
26 unemployment, thus maintaining purchasing power and limiting  
27 the serious social consequences of poor relief assistance.  
28 The legislature, therefore, declares that in its considered  
29 judgment the public good and the general welfare of the  
30 citizens of this state require the enactment of this measure,  
31 under the police powers of the state, for the compulsory  
32 setting aside of unemployment reserves to be used for the  
33 benefit of persons unemployed through no fault of their own.

34 2. It is the finding of the legislature that true economic  
35 development can only be achieved when workers are given the

1 respect they deserve. Economic development must include all  
2 residents of this state, including men and women, people of all  
3 gender identities, minorities, and immigrants. The legislature  
4 further finds that economic development should include but not  
5 be limited to residents of this state being paid a living wage,  
6 this state being a welcoming place for immigrants, child care  
7 and housing being readily affordable and available, and public  
8 workers having collective bargaining rights.

9 DIVISION II

10 PROHIBITED HIRING PRACTICES — CRIMINAL RECORD OR CRIMINAL  
11 HISTORY

12 Sec. 2. Section 84A.5, subsection 4, Code 2022, is amended  
13 to read as follows:

14 4. The division of labor services is responsible for the  
15 administration of the laws of this state under [chapters 88,](#)  
16 [88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 91F, 92,](#)  
17 [and 94A,](#) and [sections 73A.21 and 85.68.](#) The executive head of  
18 the division is the labor commissioner, appointed pursuant to  
19 section 91.2.

20 Sec. 3. Section 91.4, subsection 2, Code 2022, is amended  
21 to read as follows:

22 2. The director of the department of workforce development,  
23 in consultation with the labor commissioner, shall, at the  
24 time provided by law, make an annual report to the governor  
25 setting forth in appropriate form the business and expense of  
26 the division of labor services for the preceding year, the  
27 number of remedial actions taken under [chapter 89A,](#) the number  
28 of disputes or violations processed by the division and the  
29 disposition of the disputes or violations, and other matters  
30 pertaining to the division which are of public interest,  
31 together with recommendations for change or amendment of the  
32 laws in [this chapter](#) and [chapters 88, 88A, 88B, 89, 89A, 89B,](#)  
33 [90A, 91A, 91C, 91D, 91E, 91F, 92, and 94A,](#) and [section 85.68,](#)  
34 and the recommendations, if any, shall be transmitted by the  
35 governor to the first general assembly in session after the

1 report is filed.

2     Sec. 4. NEW SECTION.   **91F.1   Declarations and purpose.**

3     1. The general assembly declares that:

4       *a.* Removing obstacles to employment for individuals with  
5 criminal records provides economic and social opportunities to  
6 a large group of individuals in Iowa, as well as increasing the  
7 productivity, health, and safety of Iowa communities.

8       *b.* Employment advertisements in Iowa frequently include  
9 language regarding criminal records that is unrelated to the  
10 employment vacancy and that either explicitly precludes or  
11 strongly dissuades individuals from applying for employment for  
12 which they are otherwise qualified.

13       *c.* Individuals with criminal records represent a group of  
14 job seekers ready and able to enlarge and contribute to the  
15 workforce.

16       *d.* Securing employment significantly reduces the risk of  
17 recidivism for individuals with criminal records.

18       *e.* The opportunity for individuals with criminal records  
19 to secure employment or to pursue, practice, or engage in  
20 a meaningful and profitable trade, occupation, vocation,  
21 profession, or business is essential to rehabilitation and  
22 their resumption of the responsibilities of citizenship.

23     2. It is the purpose of this chapter to improve the economic  
24 viability, health, and security of Iowa communities and to  
25 assist individuals with criminal records to reintegrate into  
26 the community, become productive members of the workforce, and  
27 provide for their families and themselves.

28     Sec. 5. NEW SECTION.   **91F.2   Definitions.**

29     1. "*Applicant*" means a person pursuing employment with an  
30 employer or with or through an employment agency.

31     2. "*Commissioner*" means the labor commissioner, appointed  
32 pursuant to section 91.2, or the labor commissioner's designee.

33     3. "*Criminal record or criminal history*" means information  
34 collected or possessed by any criminal justice agency or  
35 judicial system in this state or in another jurisdiction,

1 including a federal, military, tribal, or foreign jurisdiction,  
2 concerning individuals which information includes identifiable  
3 descriptions and notations of arrests, detentions, indictments,  
4 or other formal criminal charges, and any disposition arising  
5 therefrom, including acquittal, deferred judgment, sentencing,  
6 correctional supervision, release, or conviction, and any  
7 sentence arising from a verdict or plea of guilty or nolo  
8 contendere, including a sentence of incarceration, a suspended  
9 sentence, a sentence of probation, or a sentence of conditional  
10 discharge.

11 4. "*Employer*" means a person who has four or more employees  
12 in the current or preceding calendar year and includes an agent  
13 of such a person. For purposes of this chapter, individuals  
14 who are members of the employer's family shall not be counted  
15 as employees.

16 5. "*Employment agency*" means a person who, with or without  
17 compensation, regularly brings together those desiring to  
18 employ and those desiring employment and includes an agent of  
19 such a person.

20 Sec. 6. NEW SECTION. 91F.3 Prohibited hiring practices —  
21 exceptions.

22 1. An employer or employment agency shall not inquire  
23 about or require disclosure of the criminal record or criminal  
24 history of an applicant until the applicant's interview is  
25 being conducted or, if an interview will not be conducted,  
26 until after a conditional offer of employment is made to the  
27 applicant by the employer or employment agency.

28 2. Subsection 1 does not apply to the following positions  
29 if an employer or employment agency establishes a separate  
30 application form for such positions that includes the title and  
31 job description of the position, the specific state or federal  
32 law or bonding requirement that applies to the position, and  
33 the types of criminal offenses that would preclude an applicant  
34 from being hired for the position:

35 a. Positions where employers are required to exclude

1 applicants with certain criminal convictions from employment  
2 due to federal or state law.

3     *b.* Positions where a fidelity bond or an equivalent bond is  
4 required and an applicant's conviction of one or more specified  
5 criminal offenses would disqualify the applicant from obtaining  
6 such bond, in which case an employer may include a question or  
7 otherwise inquire whether the applicant has ever been convicted  
8 of such specified criminal offenses.

9     3. Subsection 1 does not prohibit an employer or employment  
10 agency from notifying applicants in writing of specific  
11 offenses that will disqualify an applicant from employment in a  
12 particular position as permitted by subsection 2.

13     4. Subsection 1 does not apply to the following positions:

14     *a.* Positions where an employee will work within the  
15 residence of the employer if the employer or members of the  
16 employer's family reside therein during such employment.

17     *b.* Positions where an employee will have entry access to a  
18 personal residence or an occupied unit in a multiple housing  
19 structure.

20     *c.* Positions where an employee will render personal service  
21 to the person of the employer or members of the employer's  
22 family.

23     5. An employment agency shall not be liable for a violation  
24 of subsection 1 if the employment agency can demonstrate by  
25 clear and convincing evidence that such violation was caused by  
26 the employment agency's good-faith reliance on an affirmative  
27 representation by an employer that one of the exceptions listed  
28 in subsection 2 or 4 applied to the position in question. The  
29 employer shall be liable for any such violations.

30     Sec. 7. NEW SECTION. **91F.4 Powers and duties of the**  
31 **commissioner.**

32     1. The commissioner may hold hearings and investigate  
33 alleged violations of this chapter by an employer or employment  
34 agency.

35     2. The commissioner may assess and recover civil penalties

1 in accordance with sections 91F.5 and 91F.6.

2 3. The commissioner shall adopt rules pursuant to chapter  
3 17A to administer this chapter.

4 Sec. 8. NEW SECTION. 91F.5 Civil penalties — amount.

5 An employer or employment agency who violates the provisions  
6 of this chapter shall be subject to a penalty as follows:

7 1. For a first violation, the commissioner shall issue  
8 a written warning to the employer or employment agency that  
9 includes notice regarding penalties for subsequent violations  
10 and the employer or employment agency shall have thirty days  
11 to remedy the violation.

12 2. For a second violation, or if a previous violation is not  
13 remedied within thirty days of notice by the commissioner, the  
14 commissioner may impose a civil penalty of up to five hundred  
15 dollars.

16 3. For a third violation, or if a previous violation is not  
17 remedied within sixty days of notice by the commissioner, the  
18 commissioner may impose a civil penalty of up to one thousand  
19 five hundred dollars.

20 4. For subsequent violations, or if a previous violation is  
21 not remedied within ninety days of notice by the commissioner,  
22 the commissioner may impose a civil penalty of up to one  
23 thousand five hundred dollars for every thirty days that pass  
24 thereafter without compliance.

25 Sec. 9. NEW SECTION. 91F.6 Civil penalties — recovery.

26 1. The commissioner may propose that an employer be assessed  
27 a civil penalty as provided in section 91F.4 by serving the  
28 employer with notice of such proposal in the same manner as an  
29 original notice is served under the rules of civil procedure.  
30 Upon service of such notice, the proposed assessment shall be  
31 treated as a contested case under chapter 17A. However, an  
32 employer or employment agency must request a hearing within  
33 thirty days of being served.

34 2. If an employer or employment agency does not request  
35 a hearing pursuant to subsection 1 or if the commissioner

1 determines, after an appropriate hearing, that an employer  
2 or employment agency is in violation of this chapter, the  
3 commissioner shall assess a civil penalty in accordance with  
4 section 91F.5.

5 3. An employer or employment agency may seek judicial  
6 review of any assessment made under subsection 2 by instituting  
7 proceedings for judicial review pursuant to chapter 17A.  
8 However, such proceedings must be instituted in the district  
9 court of the county in which the violation or one of the  
10 violations occurred and within thirty days of the day on which  
11 the employer was notified that an assessment has been made.

12 4. After the time for seeking judicial review has expired  
13 or after all judicial review has been exhausted and the  
14 commissioner's assessment has been upheld, the commissioner  
15 shall request the attorney general to recover the assessed  
16 penalties in a civil action.

17 5. Civil penalties recovered pursuant to this section shall  
18 be remitted by the commissioner to the treasurer of state for  
19 deposit in the general fund of the state.

20 Sec. 10. NEW SECTION. 91F.7 Construction.

21 This chapter shall not be construed to require an employer to  
22 employ an individual with a criminal record.

23 Sec. 11. EFFECTIVE DATE. This division of this Act takes  
24 effect January 1, 2023.

### 25 DIVISION III

#### 26 CRIMINAL HISTORY EMPLOYMENT APPLICATION TASK FORCE

27 Sec. 12. CRIMINAL HISTORY EMPLOYMENT APPLICATION TASK FORCE  
28 AND REPORT.

29 1. A criminal history employment application task force  
30 is created. The task force shall consist of the following  
31 members:

32 a. The labor commissioner or the labor commissioner's  
33 designee, who shall represent public sector employers.

34 b. Two representatives of established civil rights  
35 and civil liberties organizations appointed by the labor

1 commissioner.

2 c. Two representatives of private sector employers  
3 appointed by the labor commissioner.

4 d. One representative of a private sector labor  
5 organization appointed by the labor commissioner.

6 e. One representative of a statewide public sector labor  
7 organization appointed by the labor commissioner.

8 2. The task force shall study appropriate voluntary  
9 standards and procedures for evaluating employment applications  
10 from an individual with a criminal history, including but not  
11 limited to the nature of the crime, the age at which the crime  
12 was committed, the nature of the duties of the position applied  
13 for, and relevant evidence of the individual's rehabilitation.

14 3. The labor services division of the department of  
15 workforce development shall provide staffing services for the  
16 task force. The labor commissioner or the labor commissioner's  
17 designee shall serve as the chairperson of the task force.

18 4. The members of the task force shall serve without  
19 compensation and shall not be reimbursed for their expenses.

20 5. The task force shall submit a report regarding its  
21 findings and recommendations to the governor and the general  
22 assembly no later than January 1, 2023. The report shall  
23 include a model pamphlet or other publication in both printed  
24 and electronic form on evaluating employment applications  
25 from individuals with criminal histories to be distributed to  
26 employers in Iowa in a manner similar to other information  
27 distributed by the labor commissioner.

28 Sec. 13. EFFECTIVE DATE. This division of this Act, being  
29 deemed of immediate importance, takes effect upon enactment.>

30 2. Title page, by striking line 1 and inserting <An Act  
31 relating to economic development matters, including legislative  
32 findings, prohibitions on seeking criminal records or criminal  
33 history for certain job applicants, establishing a criminal  
34 history employment application task force, providing penalties,  
35 and including effective date provisions.>>



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DONAHUE of Linn